

*g. Trade in America 16.*

A N

A N S W E R

TO A

P A M P H L E T,

ENTITLED

Taxation no Tyranny.

ADDRESSED TO THE

A U T H O R,

AND TO

P E R S O N S I N P O W E R.

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L O N D O N:

PRINTED FOR J. ALMON, OPPOSITE BURLINGTON  
HOUSE, PICCADILLY.

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A. N. S. W. E. R.

P. A. M. P. H. E. T.

EDITED

Taxation no Tyranny

ADDRESSED TO THE

A. U. T. H. O. R.

AND TO

PERSONS IN POWER

LONDON:  
PRINTED FOR J. ALLEN, OPPOSITE BURLINGTON  
HOUSE, 2, LUDGATE STREET.





A N

## A N S W E R, &c.

**T**HE importance of the subject, the crisis of time in which I write, and the notoriety of your stile and character, make it unnecessary for me to use a preface.

The very title of your pamphlet is delusion. No man has ever said that taxation is, in *itself*, tyranny; nor will you say, that it may not *become* so, by abuse, or by want of authority in the imposers of it. Had your title said, “ that the British parliament is the *proper* and *constitutional* body “ for taxing the Colonies,” you would not have mistated the question. But that would not have tended to ensnare an inattentive reader, by a disingenuous and a false implication.

You set out with this position. “ That “ the supreme power of every community “ has

“ has the right of *requiring* from *all* its  
 “ subjects such *contributions* as are *necessary*  
 “ to the *public safety*, or *public prosperity*.”

You pretend that this position is as old as Government, but it is evidently of modern structure. This appears from the word *requiring*. Your maxim, is, not that the supreme power has the right of *taxing*, but of *requiring contributions* from all its subjects; and is evidently framed for the present dispute, and for the identical idea of *requisition* from the Colonies. Now this, whether right or wrong, is certainly not an old, nor even now an established idea on either side of the Atlantic.

Further, if by the supreme power having a right to *require contributions*, you mean that it has a right to *tax*, you express yourself inaccurately; and if from that position you conclude, that the British parliament has a right to tax America, you but just assume what you ought to prove. For the very point in debate, is, whether the British parliament, though it be the supreme power of the whole empire as to many points, is so as to all; and particularly



larly as to taxation. Now this being a question relating to the British government, it is evident, that it is not to be determined by a general maxim of government in abstract. It must be decided by the *fundamental principles* of the *British* constitution; by the *established practice* of it; and by the dictates of sound sense, of natural justice and of public convenience, applied to the ground of that constitution.

By your general terms the reader naturally supposes it only to be asserted, that the legislature of every community has the power you speak of. Now this, in abstract, sounds well. When we speak of *the* legislature of a community, we suppose only *one* legislature; and where there is but one, it must of *necessity* have the right you speak of; otherwise no taxes at all could be raised in that community. But then the proof arises from this necessity, which makes it absurd that it should be otherwise. Where therefore there is not the same necessity, the same absurdity will not arise; nor the same proof, by consequence, follow. Now the present dispute  
is,



is, not with respect to this island alone, which certainly has but one legislature; but with respect to the British empire at large, in which there are *many* legislatures; or many assemblies *claiming* to be so. Here is the fallacy of your position. From the state of the British empire, composed of extensive and dispersed dominions, and from the nature of its government, a multiplicity of legislatures, or of assemblies claiming to be so, have arisen in one empire. It is in some degree a new case in legislation, and must be governed therefore more by its own circumstances, and by the genius of our peculiar constitution, than by abstract notions of government at large. Every colony, in fact, has two legislatures; one interior and provincial, viz. the colony assembly: the other exterior and imperial, viz. the British parliament. It would have been utterly absurd, that a provincial legislature should ever have subsisted, if it were not *practically* or *constitutionally necessary* for *certain* matters. It would be equally absurd, if the imperial legislature were to interpose in such matters; for if it should,

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one of two things must follow ; either that the imperial legislature must in such matters yield to the provincial wherever they differed ; or that it must prevail over it in points, from its own *practical*, or *constitutional unsuitness* for which, the provincial legislature was formed ; either of which would be perfectly absurd. Neither will the unity of the empire be in danger from the provincial legislature being thus exclusive as to points. It is perfectly sufficient, if the British legislature be supreme, as to all those things which are essential to Great Britain's being substantially the head of the empire ; a line not very difficult to be drawn if it were the present subject. Neither is there any absurdity in there being two assemblies, each of them sufficient, or, if you will, supreme, as to objects perfectly distinct ; for this plain reason, that, the objects being perfectly distinct, they cannot clash. The Colonist therefore, allowing that the supreme power or legislature, where there is but one, must have the right you speak of ; will say, that with respect to him

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there



there are two, and that the provincial legislature is the supreme power as to *taxation* for his Colony. And so the controversy, notwithstanding your position, will remain just where it began.

But not to have done with your maxim. It says, that the supreme power has a right to require such contributions as are *necessary* to the *public safety* and *public prosperity*. If these words have any meaning but to deceive, they must mean, that this right of the supreme power has limits, viz. that it is only a right to impose or require such contributions as are *necessary* to the *safety* and *prosperity* of the *public*. Suppose the supreme power to exceed those limits. It then exceeds its right; it acts without authority; and in all just *reasoning* becomes as impotent as an unauthorized individual. As such it may be resisted, and as such resistance to it cannot be rebellion. In your fundamental position therefore you establish a limit to the supreme power, and by consequence a justification for resistance, if that limit is transgressed. And yet in every  
other



other place you assert, that Government is the *sole* judge ; that if the people can withhold obedience in any case they are no longer subjects ; that they are rebels ; that they must be compelled ; that Government is necessary to man, and that where *obedience* is not *compelled*, Government is at an end. You say, in a word, that the supreme power has limits, and that it has not limits ; that Government has a duty, which it may transgress with impunity ; and that the people have rights, which they cannot maintain without the guilt of rebellion. And all these contradictions you build upon the sorry and verbal sophism, that the legislature of every country is the *supreme* power, and being *supreme*, cannot be *controlled*. But the truth is, that it is no more than the *chief* power in *ordinary* course ; but with an *eventual* contrroll. For in *extreme* cases, there is a contrroll in the hands of the whole people, with whom *alone* the supreme power *unlimited* of any community can reside ; and with whom it *always* does reside, though in common course they dele-

gate a portion of authority sufficient for legislation to others; but so, as that they are not to subvert the constitution under which they act; nor to convert Government to the misery and ruin of the people, for whose happiness and prosperity it was formed. This *final right* of the people is *felt* and *exercised* in the most arbitrary Governments, though it is not only not professed in those countries, but the doctrine of passive obedience maintained and perhaps generally believed. So strong is nature, and so weak is sophistry in extreme cases however, that more Turkish emperors have been slain by their subjects, than kings in all the free monarchies that have ever existed. But resistance in our constitution is not a tacit reserve; it is an express doctrine of our Government in its best times. It is then absurd to say, that the governing powers are unlimited here, for a right of resistance implies a limit. If there could be no *transgression* there could be no right to resist; and a power that has *no limits*, cannot transgress.

Having



Having thus done nothing, you proceed to a premature triumph over the arguments and principles of your adversaries through forty pages, when you come to this proposition, “ that the legislature “ of a Colony is only the vestry of a larger “ parish.” This you assert, but you do not condescend to prove, or to apply it. Let us try for a moment whether there is the smallest analogy. The legislatures of the Colonies, for so you call them, have parish vestries under them in America, similar to ours ; which bear the same relation to the provincial legislatures, which British vestries bear to the British parliament. Now I do not find that our vestries have other vestries subordinate to them in like manner. Neither do I suppose, that the provincial legislatures would have had such had they been considered as similar to British vestries. The provincial legislatures are convened and dissolved by the immediate act of the crown in the same manner as our parliament. Are the meetings of vestries so summoned, or so discharged ? Writs issue in America  
from



from the crown to the sheriffs of the several counties to have a new representative elected for every general assembly in each province. Is this a ceremony belonging to vestries? Their session opens and closes like ours with a speech from the throne upon the public business, and there is the same intercourse between them and the executive as between the king and the British parliament. Can this be said of vestries? They make laws of all kinds, civil and criminal, which jurors, sheriffs, the king's judges, all officers of judicature, and the whole province, are obliged to acknowledge as public law; and these laws require and receive the royal assent in like manner with British acts of parliament. Does this belong to vestry regulations? They vote men and money for public service and for military expeditions, witness the late war. Can this be alledged of vestries? Or would Mr. Grenville formerly, or the British parliament at this day, think of sending to any British vestry; or tell them, that if they would tax themselves

selves for the public service, parliament would not tax them? I should be ashamed to dwell longer on such a dream.

Your next proposition is, that the Americans have no reason to complain, for that they are represented in the British parliament. And how do you prove this? In fact, though not in words, the proof you offer is this. That there are *many* in Great Britain, who, not being electors, are *not* represented; that *none* of the Americans are electors; and that, notwithstanding, they *are* represented. To soften this absurdity you borrow an idea which this controversy has created. It is, that there are *two kinds* of representatives, one actual, and the other virtual; that those who have votes are actually represented; and that those who have not votes are virtually represented. And therefore as it must be made out, that the Americans are represented in some manner or other, and as it is absurd to say that they are actually represented, it is thus deduced that they are represented virtually, and that they are very unreasonable, if they are not perfectly content. But I desire that the  
law-



law-book may be produced, in which a *virtual* representative is once mentioned as a character known to our law or constitution. There is no such notice, I am bold to affirm, from the first year book down to the commentary of Blackstone. If therefore this idea is allowed at all, it must be allowed, not as a maxim of British law, but of general reason. As such it will apply equally to all governments as well as to that of Britain. Now if it be true, that every man is virtually represented in the legislature of his country, though he has no share in chusing it, then it is true that the Americans may be virtually represented in the British parliament. But it is equally true, that the same may be said of every nation under the sun, with respect to its legislature. The grand Signior for instance, has the legislature of the Turkish empire in his own person; he is the virtual representative of his people therefore; and his subjects consequently have the blessing of representation equally with the Americans; and



and thus all the governments of the world are happily brought to a level.

To comfort the Americans, it is your constant practice to tell them, that though they must have less freedom and constitutional privilege than their brethren at home, yet that the people of Great Britain have little of either. Thus you exaggerate the number of non-electors in Britain, and seem to impeach the constitution, as having been negligent of the people. In this whole business, I think you mistake the drift of the constitution, as I shall endeavour to shew. But first to touch it upon your own ground. Women and minors are a great majority of every people; yet in no constitution have they ever been electors. So far the British constitution has nothing particular to account for; and, as for the rest, let history answer. In our *œdal* origin, the property of the state, that fell to commoners, was for the most part pretty equally divided into military freeholds, to which every privilege was at that time annexed, and particularly that of constitu-

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ting county members. Moneyed property was little known, or attended to at first. As it grew, however, members for cities, towns and boroughs were, from time to time, *added*; that personal property might be represented in some measure, though not so accurately as freehold. The elective principle therefore was general and perfect, as property originally stood. If the course of time has altered this state, so as that the constitutional principle has become narrow in its operation, what follows? That some change should be made, in order that the constitutional principle should be restored to its full operation. That is, that the constitution should be revived at home, not destroyed at the other side of the Atlantic. Whereas your argument is, that because it is bad here, it should be rendered worse there; and because its image is somewhat impaired in Great Britain, that there should not be a shadow of it left in America.

Again—You tell the Americans that they are no great losers by not having a vote  
for



for their British representatives, for that those who have votes seldom know, or have seen the person whom they chuse. This is the fault of the individuals however, and the faults of British individuals are scarcely to be punished in the persons of Americans, by a deprivation of their privileges. Neither does this happen, except where the constitution has deviated from its original; and when therefore it ought rather to be restored to its purity, than its error propagated; I mean in the declining, or decayed boroughs. But if it is an absurd state of things, that the representative should not be known by his constituents, is it not absurd that America should be represented in Great Britain?

The principle of the constitution in this point was so strong, that by the common law, no man could be either an elector or a representative for any place, without *residing* on the spot. And upon the soundest reason. Men, at that unrefined period, *resided* on their *property*. There was therefore not only more personal

knowledge and intercourse, but a greater community of the most solid interests, and of property above all, between men residing in the same county or town; than between persons (though of the same kingdom) who resided at a considerable distance from each other. Both representatives and electors were, like jurors, from the *vicinage*. This was the great and sound principle of our forefathers. They knew that government was an art, practical, not theoretic. It was not an abstract subtlety that contented them, but a solid and binding principle of social connexion. What that was precisely with respect to what is commonly called representation may deserve perhaps to be a little explained.

Words that are long in common use acquire so many senses, that they lose exactness. This perhaps is the case of the word representation. A representative, however, we understand to be a delegate; a person not self-authorized; but constituted by something else. I will call him member, as less equivocal. Now what is

it



it which constitutes the member? I say the property of the county or borough; not the persons. Hence many persons in a county or borough have not votes; which ought not to be, if the persons in the county or borough were to constitute the member. But it is the property of the county or borough that is to do so; and therefore, property, *legally notified*, never fails to have a vote, that is, to make an elector; for electors are the medium through which property is to operate. This will be still more illustrated hereafter. Freehold property constitutes county representatives. Personal property constitutes all others. To explain this. Personal property was considered by the old law, as *fugitive* and *unreal*, compared with freehold property; and the quantum of it possessed by any man is difficult to ascertain. Hence the law has not fixed the quantum, nor does it require the same precise proof of its existence as it does in freehold; but has contented itself with selecting certain marks, and which are such presumptions of personal property to a degree in the possessor,

feffor, that the law allows them for a proof of it. Thus for instance, burgage tenure, birth, service, residence, paying certain rates, boiling a pot, &c. All these prove or presume some degree of personal property, and of connexion with the soil where they are found, and are admitted as proofs of it. This species of property, thus notified, constitutes members for boroughs, towns, and cities. Thus property is the universal constituent of the house of Commons. Honorary freemen, &c. I have not mentioned, being a modern device, unconnected with the constitution.

To pursue this idea. In ancient time the Commons had not very large properties. The large properties were in the barons; that is, in truth, the large properties made them barons. A man became a baron the moment he obtained a barony. Barons were not created by the crown at that time. It was an operation of property merely, not an act of the executive. Thus property constituted the baronage, and every man knows that the  
baronage



baronage is only another name for the peerage of England. A man who had a certain proportion of property of his own, was of course a peer. A number of small properties, belonging to other men, combined and centered in one man, by virtue of election, made him a commoner. One sat in right of his own property. The other sat in right of the property of others. But both sat equally by property. This accounts for some things that seem at first view irregular. For instance, the barons, in old time, sitting by their property, taxed themselves; that is, taxed their own property. But now, sitting by the act of the crown merely, without reference to property, the Commons, who continue to sit by property, have claimed the whole of taxation, and the Lords have ceded it to them. This shews to demonstration, that the body which is constituted by the property of any country, is the only body constitutionally qualified to tax that country; and consequently, that the provincial legislatures are the only assemblies constitutionally qualified to tax

tax the provinces, and not the British House of Commons, which American property has no share in constituting. This shews, that by the fundamentals of the British government, property was the vital principle. It was that which constituted *both houses* of parliament. And for wise reasons. That the interest of the members might as much as possible coincide with their duty; that the former might act as a centinel upon the latter, and that the very thing which gave men a vote in the legislature, should superintend and sway the exercise of that vote. And surely in so ordaining, they shewed a more intimate knowlege of human nature, and more salutary views, than those men who now argue, that members will do their duty as well, who have no such motives of interest to prompt them to it, whatever they may have to the contrary; and that that assembly is, in all points, even to taxation itself, the fittest legislature for America, which has not an inch of American property in the whole structure and formation of it.

Having



Having thus cleared to demonstration, I think, the fundamental principle of our government as to this subject, let me advert a little to the practice of the constitution, as it would have been on your principle, and as it actually has been.

Had the Norman conqueror returned to Normandy, and made that the seat of empire, the Norman states would have been the imperial legislature. Would he have been entitled, I ask, to tax his English subjects in his states of Normandy? You will not affirm it. Yet might he not say, "My Norman states made laws for all my subjects, when I had no subjects beyond Normandy; and why may they not continue to do so still, tho' my condition is altered in that respect? My Norman law has made no distinction concerning my subjects beyond sea; (for the prince might forget, that till he had subjects beyond sea, no mention of them could be expected.) I am too moderate to make these subjects beyond sea, dependant on myself. They shall be dependant on my Norman states; and there

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will

will be this comfort in it besides, that I can do what I please with my Norman states, whereas the popular assemblies beyond sea might be less manageable." This speech, no doubt, would be highly relished; the Norman states would be flattered; a great majority would vote for the doctrine; the minority would be called an English faction and decried; and all would be harmony and satisfaction in Normandy. But how would it have gone in England? I will answer this question for you. He must have conquered it again, and again, and again. If he were once worsted, he would have been undone, and every pause of bloodshed would have been a renewal of war.

England, however, as I hope it always will, continued to be the seat of empire to him and to his descendants. Did any of them attempt to tax their dominions beyond sea in the legislature of England? Never. The Scotch have asserted, that they conquered England; the English have asserted, that they conquered Scotland. Did either nation, though *contiguous,*



*guous*, ever think of taxing the other in its domestic legislature? No such thing was ever thought of. Henry the Fifth conquered France. Did he or his son ever attempt to tax France in the English parliament? Or if they had resided in France, would the states of France have been the constitutional legislature for taxing the English subject? You will not say it. Was Wales, though conquered and contiguous, ever taxed by the English parliament till it sent representatives thither? Never. When the crowns of England and Scotland were united in the person of James the First, who made England the seat of empire, did the parliament of England ever think of taxing Scotland? Or in queen Anne's reign, when the Scotch were averse to a union, were they ever told, that the English parliament could do the business, if they were refractory; for that Scotland was represented in

the parliament of England, though all the property on the other side of the Tweed did not constitute one vote towards constituting one member of that assembly? No man ever dreamed of such a thing. Did Henry the Second, or any of his successors, ever attempt to tax Ireland in the English parliament, though conquered, and not very distant? No, you confess. But the judges, you say, have mentioned a distinction to account for this exemption, viz. that Ireland had a parliament of her own. But why was a parliament given to her? Because no man thought at that time, that the English parliament was a constitutional or adequate legislature in ordinary, for dominions beyond sea. Nor can I believe, that the judges grounded their decision merely on the trifyllable, "parliament;" or that they had any other idea, than that Ireland having a legislature, by whatever name, competent



tent to taxation, it was not fitting that she should be taxed by the English parliament, in the constituting of which the property of Ireland had no share. Now this holds equally as to the provincial assemblies, and to the legislatures or states of every kingdom or province which I have before-mentioned; and therefore it is clear, that this universal practice was founded on a universal principle, that the parliament of England ought not to tax any part of the dominion, the property of which had not its due share in constituting that assembly. But there is an instance more precisely in point, and that is, the practice of parliament with respect to these very Colonies. From their origin till the commencement of this dispute, the parliament of England never attempted to tax them. It is confessed to have been a new idea, and as such principally it has been gloried in by Mr.

Greenville

Greenville and his friends. Will nothing convince men? I know, however, there are persons who will be ready to contradict this, and to mention, that the post-office is a tax. To this I answer, first, that it does not bear the letter and form peculiar to a tax law; and was not intended on the one side, nor received on the other as such; and therefore can be no precedent. At least, if it were intended so by you, the intention was masqued. There was concealment in the transaction, enough to destroy it in a court of equity. And if you set the example of ligitiousness, and of little over-reaching to your dependencies, you will make them afraid of you in every part of your dealing; which will encrease your difficulties without end, and will begin with universal contention, as it will terminate in universal chicane. Next I answer, that the post-office was an *undertaking* first carried  
on



on by individuals at their private hazard ; since adopted by the state, which stands in the place only of those individuals as to the dependencies ; and that it is now as an *establishment*, maintained at the sole expence of Great Britain. She therefore has a right to say to any man, that if he makes use of that convenience he shall pay for it. It is a matter of compact, not of legislation, either in letter or in spirit. The Americans can send their letters by other conveyances. They have done so. And if they generally do otherwise, it is because they prefer the public vehicle to any other, not because they are confined to it. That is, they pay postage for the carriage of their letters, as they would pay a stage coach for the carriage of their persons. I deny, therefore, that there is a single instance in which the British parliament has taxed the Colonies. And you cannot deny that  
the

the British parliament has acknowledged, that the provincial assemblies *can* tax the provinces, and that, in *fact*, they have exercised that right in a manner the most meritorious towards this country. You cannot therefore contest their power of granting money, nor their inclination to grant reasonably; but you fear, that they will not grant unreasonably. You want therefore to deprive them of a negative, and to extort what you please by threatening, that you will tax them here, if they do not implicitly tax themselves in America. Not content with a reasonable resource in an application to their choice, you want to establish a boundless resource in their fears. Like our arbitrary princes, you are straining the prerogative of this country, that under the terror of it you may obtain what you do not chuse from an unconstitutional pride, or what, from its unreasonableness, you are afraid to ask.

Your



Your apprehensions that the Colonies might by Provincial Grants render the Crown independant, unless Parliament had a right to interpose, is only a pretence? Why have you ever let them make grants then? And is not your complaint that they have granted too little, not too much? But if that be your real fear, you can remedy it without a civil war. Pass an Act of Parliament, declaring that it shall not be lawful for the Crown to give the royal assent to any provincial grant without the approbation of Parliament. America will not refuse you a negative on her grants, but she will not relinquish a negative on your demands. I repeat, that the English Parliament has never taxed the Colonies. And if I could not, I should say, what all the world must acknowledge, that neither they, nor any body of people on earth, could defend their freedom for half a century, if a desultory and a questionable instance could overthrow it. It is not one problematical precedent

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that can be of any weight against a people. It must be by the general current of rational, unequivocal, and unoccasional practice, that the constitution of any country is to be tried.

And may not the Colonists well say, that it would be wonderful indeed if our Parliament had been designed to be an universal legislature to the ends of the earth, and as to all points? That our forefathers must have been not only wise men, which they were, but prophets, which they were not, if they could have foreseen our American acquisitions? And that no conclusion can be more certain, than that our Parliament, in fact, was not originally intended to tax them, because when it was formed there was no such thing in being. May they not say, that the only *equity* advanced in favour of the British claim, is, that the *Americans* are exactly in the same case with the *non-electors* of Britain? And may they not maintain that nothing can be more dissimilar? For that first the British non-electors



elector has a strong influence upon the *elector*, by habits of personal intercourse and connexion; but that the American has none. Next, that the British non-elect<sup>r</sup> may at any time acquire a vote by money or industry; but that the American never can. And lastly, that the British representative cannot tax the non-elect<sup>r</sup> of Britain without taxing his constituents equally and himself: whereas every tax that he lays on America, is, in the first instance, a gain and exoneration to his constituents and himself, in the same manner exactly in which it is a burden to America. May they not say, that men may be much more safely trusted in imposing taxes which they are to *pay*, than in imposing taxes which they are to *receive*? That the former is fairly a legislative act of *taxation*; but that the latter is an arbitrary imposition of *tribute*? May they not ask, Whether the people of Great-Britain would think themselves as safe in being taxed by *vir-*

*tual* representatives in *America*, as in  
 being taxed by their *actual* representatives  
 in *Great-Britain*? And whether they  
 would not esteem such levies to be a *fine*,  
 rather than a *tax*; and an *enaction*, ra-  
 ther than an *impost*? May they not say  
 with some reason, that they wish you  
 would know your own minds, and what  
 would content you, and that you would  
 decide for once, Whether the possession  
 of the Colonies, upon the old terms,  
 would be an advantage to you, or not?  
 For that if it would not, you are doubt-  
 less at liberty to relinquish it; and that  
 if it would, you have no right to be paid  
 for it? Have they not some reason to say  
 that you are paid for it already according  
 to your original requisition? That the  
 profits of their commerce, not taxes, li  
 were your object in colonizing; and that,  
 possessing that, you have no right to a  
 further payment by way of taxation?  
 And that if they shall be able, and shall  
 consent to contribute taxes, also that you  
 should



should receive them rather as an over-  
 payment, and as so much clear gain, than  
 as a strict debt, or as a grounded demand?  
 May they not say that it is rather hard  
 that you should charge them with being  
 a burden and a grievance to you if they  
 chuse your protection; and accuse them  
 of being rebels if they are content to be  
 without it? May they not observe, per-  
 haps, that you call your connexion with  
 them by different names, according to the  
 ends which you have to carry? That if  
 you want taxes from them you call it  
 protection; and that if they want rights  
 and immunities from you, that you call  
 it mastery and dominion? So that they  
 may be beggared by taxes in return for  
 being protected; and executed as rebels  
 if they prefer independance? May they  
 not say, when you complain of your  
 taxes, that you could not pay those taxes  
 if it were not for your commerce; and  
 that a great and beneficial part of your  
 commerce, is your *monopoly* of American  
 traffic?

traffic? If therefore your *monopoly* of American traffic supplies a good part of those taxes, is it just to say, that America does not contribute, or that she is not entitled to protection from any part of them? May she not also assert, that she is not the authoress of that debt with which you charge her? That the wars of King William and Queen Anne began it; that venal and unmanly counsels continued it; and that in the last war it was the Germanic, and not the American Continent, from which it received its final accumulation? That all these measures were the product of English Counsels, which were approved by the British Parliament, but over which the Colonies had no influence? That if the last war began about American boundaries, it was only because America is a British territory, and that it would equally have begun in whatever part of the dominion the encroachment had been made? And if you will have America to be particularly



larly concerned in the commencement of  
 that war, may she not be bold to say,  
 that it was the conquests in America  
 which your Colonists helped to make,  
 and the cessions in America which they  
 did not help to make, that accomplished  
 the peace? Has she not reason to bid you  
 look forward, and to tell you, that bend-  
 ing under that national debt, the Conti-  
 nent of Europe is not a scene on which  
 you can act; and that it is by the Ameri-  
 can Continent only that the balance of  
 Europe can be any longer in your hands?  
 That by your great superiority of num-  
 bers there, you command both the Ame-  
 ricas, command Spain and Portugal, influ-  
 ence France and other powers of Europe,  
 and that therefore instead of checking  
 their encrease by a jealous and hostile  
 policy, you ought to encourage it by  
 every just and generous institution: that  
 instead of exasperating them by system,  
 you should bind them to you by every  
 demonstration of liberal attachment; and  
 that

that you should leave them to conduct themselves to prosperity, without the alarming interposition of imperial authority, except where it is *bona fide* essential to preserve Great-Britain at the head of an united empire? And as taxing the Colonies in the British Parliament, or making them tax themselves by compulsory requisition from hence, is inconsistent with all the rights of British property; and as it is evident from your own past experience, that such a power is not necessary to the union of your empire, but probably inconsistent with it; have they not reason to hope that you will renounce the idea with a manly decision, and not hold over their heads, *in terrorem*, a claim, which even arbitrary countries do not exercise over their colonies, the establishments of which are maintained at the expence of the parent state, without raising in them any conception that their colonies are therefore useless,



useless, or that their empire is in danger of being dissolved?

Surely no man can doubt but that system of Colony Government is best by which you will derive the greatest benefit from your Colonies, with the least disquietude and discomfort to them and to yourselves. You will not let them go at large into manufactures or commerce. What follows? That they never can be opulent states, and not being so, that they never can be productive of any considerable revenue. Do not endeavour to unite incompatibilities. You have made your choice, and you have made a wise one. You have chosen the greater object in preference to the less. You have chosen copious returns of trade, rather than scanty resources of tribute. It would be absurd now to shake and to reverse your system for the purpose of going back to what you were right in originally relinquishing. And right too not only because it is in itself of more value, but

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because you can get much in this way without disgusting your Colonists; whereas you could get but little in the other with their total alienation. And that, for this plain reason;—that men can better bear to be deprived of many means of acquisition, than to lose all security in what they already possess. For men can be happy without wealth, but they cannot be happy with nothing. It was right also, because if your title to taxation was ever so clear, it is equally clear that you ought not to use it—witness the Stamp-act; a law particularly calculated to execute itself, digested by an acknowledged Financier, and prepared for by him as a great experiment, with much circumspection, and through a long period of time: And yet take the whole system, and you find a thousand errors in it, and inaptitudes to the place for which it was designed. What then would it be reasonable to expect from such a power in the hands of ordinary financiers,



financiers, and in the common course of business, in which expedition, and round numbers, as it were, are preferred to accuracy or justice? What but eternal blunders, eternal miscarriages, and eternal feuds? What would be the consequence? You would hazard all your American commerce, and all your American empire for the shadow of revenue. Without a large army you could levy nothing. With a large army the expence would over-balance the receipts. If that army did not reside, all would be confusion the moment it departed; if it did reside, how could its ranks be kept full? Or how could it be prevented from becoming American? And if all these difficulties were removed, how could such a system be reconciled to the principle of your empire, which is free and commercial; and which cannot be either of these without being both? Rome, however, it may be said, governed her Provinces by armies. Be it so. But her

empire was military, not commercial. War was to her, in some measure, what peace is to us. It fanned the principle of her government. Armies too were to Rome what Navies are to Great-Britain. Yet what was the consequence of this measure there? All manner of injustice and rapine spread through the Provinces under the sanction of the Roman banner. Some of the dependencies were ruined more quietly. Others revolted. Larger armies were called for. The ruin of some provinces, and the mighty armies sustained in others, exhausted the empire. The *distant legions* became tumultuary. One province was employed against it's neighbour. As one army was quieted, another mutinied. The Empire was tossed from hand to hand; and the Roman Government, once so famous, became a theatre of military ravage; full of contending Emperors, and conflicting Legions. The same tumults would close the scene with us; and



and the Empire would be dismembered by the very arms that were intended to unite it. For nothing that is unnatural can last. There would be this difference, however, that this measure might have seemed at first to be congenial, and even auxiliary to the principle of the Roman State; but in our Government it would be madness from the beginning. What follows? That if for ten thousand reasons you cannot govern by the sword, you have but one thing left, and that is, to govern by justice; and if this proposition revolts you, it is clear that you are not in a temper to govern.

That this system will dismember the empire, is one of those solemn absurdities which some men affect to believe, for the purpose of imposing upon others. Has your hitherto leaving them to tax, and in general to regulate themselves, overturned your empire? No.—It has made it.—Has Ireland having had a parliament for every purpose of legislation  
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for six hundred years made her independent, or undutiful. You acknowledge the contrary. Indeed how is it possible any thing of this sort should happen? The British Parliament declares who shall be King for the whole empire; and without the assent of that King, no law can pass in any of the dependencies. Will that King dare to give, or will his Ministers dare advise him to give the royal assent to any law that will dismember the empire? Is it credible to suppose that he would forfeit the Crown of the whole Empire, to gratify or to conspire with a part of it, which he must lose together with that Crown? It is nonsense to suppose it. No law therefore can pass in any dependency, over which you have not a negative, in *effect*, though not in *form*. Is this nothing? The power of peace and war, and the sword of the Empire, resides with Great-Britain. Your friends and enemies are of course the friends and enemies of the whole dominion.



nion. Is this nothing? You raise men for your fleets and armies throughout the whole. Is this nothing? The worst that can happen is that you may sometimes fail in getting money from them also. This too you will get in a reasonable degree, and with reasonable attention to them. Neither is all that they can ever contribute, over and above the maintenance of their local establishments, worth a civil war. For as to any significant remittances of revenue from America to Great-Britain, it is too absurd to talk about. Add to all I have said above, what is indeed revenue, and infinitely more than revenue: That Britain, as the head of a naval and commercial Empire, must be supreme in trade and commerce, naval and maritime regulation. Is this nothing? Or rather is it not every thing? Will you get nothing from your Colonies by such a system? I will be bold to say that you will get more than any nation under the sun ever obtained from  
Colonies

Colonies before ? What follows from all this ? That you are going at this very moment, at the expence of every species of injustice and cruelty, to contend with your countrymen for nothing, at the hazard of every thing. If this is common sense go on with it.

You say it is strange that in this dispute Englishmen have become opponents to English honour and interest ; — That perhaps it never happened before that justice found much opposition with interest on her side ; and that the principles of the Congress, however *wild*, have united *all* the provinces against the mother country, from New England to South Carolina. Are not these circumstances, I ask, much stronger presumptions against you, than in your behalf ? For is it possible to conceive, that a cause, in which no religious enthusiasm enters, which has nothing to appeal to but reason and justice, and against which the semblance of a national interest and honour



honour is leagued—is it to be conceived that such a cause, if founded in fraud or falsehood, could have stood *ten year's* agitation without detection? Or that if it were not built on the most solid truth, and upon the most commanding justice; that so many provinces, with so many principles of discord to keep them asunder, would have united against a parent country so powerful, and to which the moment before they were so cordially united? And that such a combination in America, should not produce union in Great-Britain, even if before there had been nothing but enmity; instead of leaving this matter as it has done, to be the leading, and almost the only subject of controversy amongst us? And what can be more honourable to the character of this great and just nation, than that no sophism of perverted talents like yours; no pretexts even of national interest, or honour; nor all these, aided by the voice of Parliament itself, could warp the in-

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tegrity of the public mind : or blind it to those rights in their countrymen, which the people of this kingdom, by such an unshaken adherence to them, have shewn they will not suffer to be torn from themselves ?

You say that the Colonies of Britain differ from those of other nations, no otherwise than as the English constitution differs from theirs. The American agrees with you, and says that is in freedom. But that, not a modern device dressed up in deceitful words, but the solid freedom of the British constitution ; which cannot exist without a *resident* legislature for domestic regulation in general, and for taxation particularly furnished with members constituted by the property of that country which they are to tax. He who goes *voluntarily* to America, you say, cannot complain of losing what he leaves in Europe ; for that as a man can be but in one place at once, he cannot have the advantage of multiplied residence.

But



But first, our Colonists were *not* mere voluntary emigrants. They went by the *invitation* of the State. A futile claim to an uncultivated territory was all you had. That you would have lost if you had not sent them to keep possession of it. They went therefore in the service of their country, and a hard service too. A barren, or over wooded soil was what you gave them. You owe your title to that soil, at this moment, to their occupancy; they owe the fruits of it to their labour; and they pay the monopoly of its trade to your superior and parental relation. Men who stand in this situation are not lightly to be construed out of their privileges. They allow, by this change of place, that they lose their vote for a representative in Britain; and they claim in lieu of it, though by no means an equivalent, a vote for a representative in America. They say it is an inseparable quality of property by the British Government, to constitute the members of the legislature that are

to tax that property; that as their property lies in America, it must constitute the members that are to tax America; but that it has no share in constituting the British House of Commons, and that therefore they are not to be taxed by that assembly.

You say that the Americans do not wish to send representatives to the British parliament, and I believe it. They see the difficulty, or rather impossibility of executing such an idea, and how unfairly, if it were possible, it is likely to be executed. They conclude, therefore, that they must be represented and taxed in America. But you conclude the reverse, that they ought to be taxed in England; and say, that there is little difference, if any, between a man's being taxed by *compulsion without representation*, and being *represented by compulsion in order to be taxed*. This seems, how consistently I know not, to state this as the alternative to which the American is reduced. And  
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the American confesses that your doctrine at the best, does not mend that condition. For he says that if you force him to receive at the point of the sword a fiction of his being virtually represented here, that he will then be exactly in the state you describe, viz. that of being represented by compulsion in order to be taxed. And he admits that violence in the first instance, by taking his money by force without any law, would be less an insult to his understanding; and perhaps a less dangerous because a more alarming violation of his property.

And though every part of your publication breathes nothing but the spirit of tyranny, yet there is one passage so audacious that it deserves to be distinguished. In your 24th page you have these words, an *English Individual* may by the supreme authority be deprived of liberty, and a *Colony* divested of its powers, for reasons of which that authority is the sole judge." If one Individual, or one Colony, can be

be thus deprived, so may all the Colonies together; so may every man in the community. For I defy any man to shew where any limitation exists, if any such power be admitted. By this doctrine, the Parliament, for reasons of which it is the *sole* judge, that is without assigning any reason at all, may make every man in the British Empire a slave in one day. That is to say, a body of men, taken from amongst ourselves, in number not above a thousand, collected in one spot of the Empire, under the most sacred trust for the service of the whole, are entitled to do that which no power on earth has a right to do, viz. to make slaves at one blow, and without saying wherefore, of fourteen millions of fellow subjects, and of their posterity, to latest time, and throughout every quarter of the world. Is such language to be endured? Or can he be a friend to human nature who uses it?

With



With equal humanity in your 60th page, you say “if the Bostonians are “condemned *unheard*, it is because there “is no need of a *trial*. All trial is the “investigation of something *doubtful*.” Your ideas of legislation we had before, and your *judicial* ideas are as intolerable. To say that a crime’s being notorious, or asserted to be notorious, will justify condemnation *unheard*, is too insolent an imposition. Where is the Caligula who would not say that the guilt of the man, or of the province that he wanted to destroy, was notorious. If the assertion of the tyrant will convert cruelty into justice, no tyrant will ever be cruel. But the law of England is so different from your sentiment, that it presumes every man to be innocent, till his guilt is tried and established. That is, instead of condemning *unheard*, so long as any man is *unheard*, it acquits him.

Neither do you stop at barren tenets of tyranny; but endeavour to propagate them

them into act; and to stamp their image upon the measures of Government. You call aloud to the Crown, to new model; that is, to innovate charters. Yet what is your doctrine with respect to charters? It is that if these emigrants had gone without ceremony to seek their fortunes in any district which was unoccupied, or which by arms, address, or labour, they had acquired, they would have been independent states. But that by accepting these charters, the Colonists put themselves under the protection of the state, and by necessary implication under its jurisdiction and authority. Thus you confess that if it were not for these charters, they might have been independent; and yet in other places you say that it is to these charters they owe that they are freemen. At one time you state these charters as an invaluable favour conferred upon them, and at another, as an inextricable chain by which they are bound. You state it as a compact; and justly with



with respect to the Emigrants; for they gave up every thing here for what they obtained in America. What follows? That you cannot take that away from them without restoring, at least, what they gave up for it. Now what is that? All that they, and their descendants might have acquired by remaining in Great-Britain ever since, all which they have lost; and which is probably much more than they have gained. Now this I believe you would find it hard to calculate, and as hard perhaps to pay.—To return.—Who were the parties to this compact; The Colonists and the Crown; not the Parliament. Now if in such a transaction, the Parliament is not included, it is final against the Parliament. If on the other hand it is included, and that the Crown is to be considered as acting for the Parliament, I say that its act must be binding on both sides, or on neither. That is to say, that Parliament must be bound on one side, or

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the Colonist is not bound on the other. And this with good reason; first, because it is the nature of compact to be mutual, or null. And next, because if the terms were disagreeable to Parliament, Parliament had an opportunity of immediately undeceiving the Colonists, and declaring their dissent; which if they did not they are bound. Now did they make any such declaration? Nothing like it. I say then that the faith of Legislature is as much pledged by this subsequent and implied assent, as by an antecedent participation.

I have proved, that taxation by an Assembly, not constituted by the property which it taxes, is an idea repugnant to our constitution. Such a power, therefore, to exist at all, must be reserved in the most express terms. Now it is confessed that taxation is reserved only in one charter, that of Pennsylvania. By every other therefore it is excluded I say; and that, not only by  
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constitutional inference, but by the co-operation of Parliament itself in the assent which it has given to these charters, as above explained. And to this natural construction of the charters as they stand expressed, I add the contemporary and continual construction which they have received from the conduct of Parliament, which best knew its own intentions, and which did not tax them: insomuch that the non-user may be better argued to be a tacit renunciation of taxation as to Pennsylvania, where the power was reserved; than as leaving a doubt but that there is no such right where it was not reserved. And shall any man say that such rights, purchased originally by what was relinquished here, purchased since by labour and service in America, and ratified by time, the arbiter of Governments—Shall any man say that such rights are to be blown away by the breath of the first idle disputant? Or that they are alterable or revocable every

hour of the day; with this absurdity added to injustice, that they are alterable and revocable only on one side: that is to the injury of the Colonist for ever, and at no period of time to his benefit? And this without considering, that by your own doctrine these charters, instead of being annulled as the ground of their independance, ought to be held sacred and immutable as the source of your authority?

But not content with innovating charters, you advise that the Americans universally should be subjugated by stricter laws and stronger obligations. You exhort that national *vengeance* may be poured on the contrivers of mischief, and that no *mistakes* of *clemency* should prevent abundant forfeitures. Lest this should not be sufficiently harsh and humiliating, you suggest, that their slaves may be taken from them, though, by your laws, their property, and settled, with arms for their defence, in some  
simple,



simple, that is, arbitrary form of government. Thus you would establish a Saturnalia of cruelty, and expose these devoted men to the brutality of their own slaves, enflamed and irritated to retaliate tradionary wrongs, and to wreak a barbarous vengeance on their degraded masters. Lest even the common soldier should have too much tendernefs for them, you are careful to represent them under every odious and disparaging image. You say, that we ought to resent our situation as the Scythians did of old when they found themselves excluded by their own *slaves*. You slander the very bounties of nature in them; and, as far as you can, degrade them below the rank of humanity.

Is this the language of a sober enquirer? As a philosopher, as a moralist, as a man, you ought to have cried out to the contending nations, “ Infatuated  
 “ as you are, whither do you rush?  
 “ Though you may have some cause  
 “ for

“for difference with each other, you  
 “have much more still for concord.”  
 But you have scattered firebrands be-  
 tween them. You have endeavoured to  
 ripen tumult to anarchy, and dissatis-  
 faction to rebellion; and to transform  
 punishment into waste and extirpa-  
 tion.

The tumour of your stile, the info-  
 lence of your manners, your rawness in  
 the great principles of the subject which  
 you treat, and your universal inaccuracy,  
 or unfairness in arguing, are inferior con-  
 siderations and faults that may be for-  
 given. But let it be remembered at all  
 events, that with respect to this point  
 you confess, that if the Americans are  
 right, it is robbery in us, not rebellion  
 in them. Now I ask any man, whether  
 on this state it is so clear that America  
 is wrong, and that it is not robbery in  
 us, as that we should lightly run the  
 risque of becoming murderers also; and  
 murderers of our fellow-subjects into the  
 bargain?



bargain? Every lover of truth and liberty, every honest and conscientious man will feel this question. The soldier will feel it; the sailor will feel it; the free subject will feel it: the King and his Ministers will feel it.

F I N I S.

1763

My dear Mother  
I have just received your letter of the 10th inst. and am  
glad to hear from you. I am well and hope these few lines  
will find you the same. I am very much obliged to you for  
the trouble you have taken in writing to me. I am  
ever your affectionate son  
John Smith



THE END



